

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Adamson Jones	
22 MAY 2006	
Records <input type="checkbox"/> Scanned <input type="checkbox"/>	Action: <input checked="" type="checkbox"/> EJS <input type="checkbox"/> PDF <input checked="" type="checkbox"/>

PCT

To:

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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(PCT Rule 71.1)

Date of mailing (day/month/year)	19.05.2006
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Applicant's or agent's file reference 1060/853/PWO	IMPORTANT NOTIFICATION
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International application No. PCT/GB2005/000503	International filing date (day/month/year) 19.02.2005	Priority date (day/month/year) 19.02.2004
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Applicant BOOTS HEALTHCARE INTERNATIONAL LIMITED
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1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:	Authorized Officer
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1060/853/PWO	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/GB2005/000503	International filing date (<i>day/month/year</i>) 19.02.2005	Priority date (<i>day/month/year</i>) 19.02.2004	
International Patent Classification (IPC) or national classification and IPC INV. A61K7/48			
Applicant BOOTS HEALTHCARE INTERNATIONAL LIMITED			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> <i>sent to the applicant and to the International Bureau</i> a total of 4 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 16.12.2005		Date of completion of this report 19.05.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized officer Menidjel, R Telephone No. +31 70 340-3680 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**International application No.
PCT/GB2005/000503

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-25 as originally filed

Claims, Numbers

1-32 filed with telefax on 16.12.2005

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☒ the claims, Nos. 11
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2005/000503

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 28-32

because:

☒ the said international application, or the said claims Nos. 28-32 relate to the following subject matter which does not require an international preliminary examination (specify):

see separate sheet

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2005/000503

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-32
	No: Claims	
Inventive step (IS)	Yes: Claims	1-32
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

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Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

- The subject-matter of claims 28-32 is related to a method for treatment of the human or animal body from surgery or therapy. Using its discretion, the present authority decided not to carry out an internal preliminary examination on that subject-matter (Article 34(4)(a) PCT in conjunction with Rule 67.1(iv) PCT).

For the assessment of the present claims 28-32 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 - The following documents (D1,D2,D3) are referred to in this communication (Article 33(6) PCT); the numbering will be adhered to in the rest of the procedure:

D1: WO 03/063816 A (THE PROCTER & GAMBLE COMPANY) 7 August 2003 (2003-08-07)

D2: CH 647145 (DR. MED. PAUL HERZOG; KARIN HERZOG-THOMANDER) 15 January 1985 (1985-01-15)

D3: EP-A-0 696 451 (REVLON CONSUMER PRODUCTS CORPORATION) 14 February 1996 (1996-02-14)

2. Novelty (Article 33(2) PCT)

- The subject-matter of present claims 1-32 is considered as novel over the cited prior art for the following reasons (Article 33(2) PCT):

- Document D1 (WO03063816) describes a topical care composition comprising a hydrolysed milk protein, salicylic acid and a cosmetic carrier (Cf. D1, page 2, last paragraph-page 3, paragraph 2; page 6, last paragraph-page 7, paragraph 1; page 10, paragraph 2; page 13,

paragraph 1-page 16, paragraph 2; claims 1-11).

- Document D2 (CH647145) describes a cosmetic product comprising milk protein, hydrogen peroxide and salicylic acid (Cf. D2, the whole document).
- Document D3 (EP0696451) describes a cosmetic formulation comprising salicylic acid and a hydrolysed vegetable protein (Cf. D3, page 2, line 49-line 52; page 3, line 14-line 36; example 1; claims 1-9).
- None of the cited documents D1-D3 refers to a skin care composition with a pH in the range 2.5-6.0, the composition comprising 0.1-5% by weight salicylic acid or a salt thereof and wherein the ratio of salicylic acid or salt thereof to hydrolysed milk protein is in the range from 2:1 to 15:1 parts by weight.

3. Inventive Step (Article 33(1),(3) PCT)

- The subject-matter of present claims 1-32 is considered as being inventive for the following reasons (Article 33(1),(3) PCT):
 - The problem to be solved by the present application is to provide a skin care composition effective in the treatment of acne vulgaris which comprises salicylic acid with one or more oil control agents.
 - The solution proposed in the present application is a skin care composition suitable for topical application to the skin, the composition comprising salicylic acid or a salt thereof and hydrolysed milk protein as described in present independent claim 1 and an article impregnated with said skin care composition (see independent claim 25).
 - Document D1, which is considered as the closest prior art, describes a topical care composition comprising a hydrolysed milk protein, salicylic acid and a cosmetic carrier.
 - The difference between the teaching of the closest prior art and the subject-matter of present claims 1-32 is a skin care composition and said article impregnated with said skin care composition wherein the specific concentrations of salicylic acid or a salt thereof and hydrolysed milk protein within the composition.

**INTERNATIONAL PRELIMINARY
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International application No.

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- Starting from D1, the skilled person had no incentive to come to the claimed solution and therefore, the subject-matter of present claims 1-32 is considered as being inventive according to Article 33(1),(3) PCT.

- Claims 28-32 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

4. Industrial Application (Article 33(4) PCT)

- The subject-matter of present claims 1-27 is considered to be industrially applicable; claims 1-27 therefore, satisfy the criterion set forth in Article 33(4) PCT.